

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

KIMBERLY GAIL FLECK,

Plaintiff,

v.

CIVIL ACTION NO. 2:22-cv-00365

KILOLO KIJAKAZI,

Acting Commissioner for the Social Security Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff’s Complaint seeking review of the decision of the Acting Commissioner of Social Security, Kilolo Kijakazi (“Commissioner”) denying Plaintiff’s application for a period of disability and disability insurance benefits (“DIB”) under Title II of the Social Security Act, 42 U.S.C. § 401–433. (ECF No. 2.) By Standing Order entered January 4, 2016, and filed in this case on September 1, 2022, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and a recommendation (“PF&R”). (ECF No. 4.) Magistrate Judge Aboulhosn filed his PF&R on February 23, 2023, recommending that this Court reverse the final decision of the Commissioner and remand this matter back to the Commissioner for further administrative proceedings. (ECF No. 17.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file

timely objections constitutes a waiver of de novo review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R were due by March 13, 2022. (ECF No. 17.) To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 17), **VACATES** the final decision of the Commissioner, and **REMANDS** the case to the Commissioner for further administrative proceedings. The Court further **DIRECTS** the Clerk to remove this case from the Court's active docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 10, 2023



THOMAS E. JOHNSTON, CHIEF JUDGE